

REMARKS

The Examiner's attention to updating the numbering of the previously submitted claims, and other courtesies, is appreciated. Thus, claims 9-21 are pending. New claim 21 is added to more particularly set forth that which Applicants consider to be their invention and is based on pending claim 10, but without the recitation of residue substitutions.

The Restriction Requirement

The Examiner has required Applicants to elect one of four groups for further prosecution

- Group I: Claims 9 and 10, directed to a peptide;
- Group II: Claims 11-14, directed to a pharmaceutical composition;
- Group III: Claim 15, directed to a method of killing cells; and
- Group IV: Claims 16-20, directed to a method of treating a human or mammal.

In response, Applicants elect, with traverse, to prosecute the claims of Group I, that include claims 9 and 10, as well as new dependent claim 21. This election is made without prejudice to Applicants' right to prosecute the inventions of Groups II-IV in any continuation or divisional patent application.

Nevertheless, Applicants respectfully request that the Examiner reconsider and withdraw or modify this restriction requirement. The Examiner has the discretion to prosecute all of the pending claims in a single patent application. In fact, "[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (Emphasis added; Manual of Patent Examining Procedure, v8 § 803, second paragraph, ("Restriction - When Proper").

It is respectfully urged that a search of the art that is directed to the invention of elected Group I, will also very likely overlap a search strategy directed to the subject matter of the invention of the non-elected groups. For example, it is respectfully urged that a search of the art directed to the, "modified cecropin A-magainin 2 peptide" of claim 9 would also overlap searches that might be directed to the "pharmaceutical composition comprising a modified cecropin A-magainin 2" of claim 11, and methods of using the modified cecropin A-magainin 2 of claim 9.

Thus, for reasons of efficiency in prosecution and searching, and to reduce the costs and burdens on the Applicants, the Examiner is respectfully requested to reconsider and withdraw or modify the present Restriction Requirement.

An early and favorable action on the merits is earnestly solicited.

This Response is believed to be timely submitted. However, in the event that it is determined that an Extension of Time is required, the Commissioner is authorized to treat this paper as the required petition for extension of time, and to charge any required fee to Deposit Account No. 50-0217. If any other fee is determined to be required for entry of this paper, that fee may also be charged to the above-mentioned Deposit Account.

Respectfully submitted,

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